

SENATE BILL REPORT

SB 6353

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, January 31, 2018
Ways & Means, February 1, 2018
Transportation, February 6, 2018

Title: An act relating to increasing opportunities for citizens to participate in elections by streamlining procedures in order to automatically register citizens to vote.

Brief Description: Concerning procedures in order to automatically register citizens to vote.

Sponsors: Senators Hunt, Billig, Kuderer, Saldaña, Conway, Carlyle, Hasegawa, Dhingra, McCoy, Nelson, Mullet, Lias, Rolfes, Hobbs, Keiser, Cleveland, Chase, Darneille, Frockt, Palumbo, Van De Wege, Ranker, Wellman, Takko and Pedersen; by request of Governor Inslee.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/17/18, 1/19/18, 1/31/18 [DPS-WM, w/oRec].

Ways & Means: 2/01/18 [DP2S-TRAN, DNP, w/oRec].

Transportation: 2/05/18, 2/06/18 [DP3S, w/oRec].

Brief Summary of Third Substitute Bill

- Provides for eligible applicants for enhanced driver's licenses or identicards who do not decline the option, to be automatically registered to vote.
- Provides for eligible applicants for services at the Health Benefit Exchange (HBE), who do not decline the option, to have relevant information transmitted to the Secretary of State (SOS) for the purposes of voter registration, and authorizes HBE to implement automatic voter registration.
- Encourages other agencies, including those providing public assistance or services to persons with disabilities, the Department of Agriculture, Veterans Affairs, the Military Department, and the business professions division of DOL, to offer the option to be automatically registered to vote.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires other agencies to transmit information about prior applicants to election officials, who will automatically register any eligible person who does not decline to vote.
- Directs a study regarding the feasibility of automatically registering each child born in Washington and recently naturalized citizens to vote.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6353 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Saldaña.

Minority Report: That it be referred without recommendation.

Signed by Senators Miloscia, Ranking Member; Zeiger.

Staff: Samuel Brown (786-7470)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6353 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Transportation.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member; Bailey, Becker, Brown, Schoesler and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Rivers and Wagoner.

Staff: Claire Goodwin (786-7736)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Third Substitute Senate Bill No. 6353 be substituted therefor, and the third substitute bill do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Chase, Cleveland, Dhingra, Fortunato, Liias, McCoy, Sheldon, Takko, Wellman and Zeiger.

Minority Report: That it be referred without recommendation.

Signed by Senator O'Ban.

Staff: Bryon Moore (786-7726)

Background: National Voter Registration Act. Among the provisions of the National Voter Registration Act of 1993 (NVRA), popularly known as “Motor Voter,” is a requirement for states to provide opportunities for voter registration when citizens apply for a new or renew an existing driver’s license or identification card.

In Washington, driver’s licensing agents ask driver’s license or identicard applicants whether the applicant wants to register to vote or update an existing voter registration. An applicant for a standard driver's license or identicard is not asked to disclose the applicant citizenship or legal residency status unless the applicant chooses to register to vote. If an applicant registers to vote, the Department of Licensing (DOL) transmits that voter's registration information to the Secretary of State (SOS).

The NVRA also requires that certain designated social services agencies perform voter registration activities. In addition to DOL, the Governor has designated the following as voter registration assistance agencies:

- the Department of Health (DOH);
- the Department of Services for the Blind;
- the Department of Social and Health Services;
- the HBE; and
- the Health Care Authority.

Since 2015, nine states and the District of Columbia have enacted laws requiring the automatic voter registration of eligible applicants for services at state agencies, predominantly at motor vehicle departments, unless the applicant opts out.

Voter Registration Database. The SOS maintains a centralized voter registration database containing the name and registration information of every legally registered voter in the state. Registration information shared with the SOS through the DOL database is validated and added to this official list of registered voters. The electronic signature on a drivers' license, identicard application, or renewal may serve as the electronic signature for voter registration purposes.

Crimes and Penalties. Voter violations, including knowingly registering to vote when unqualified, providing false voter registration information, and making a false declaration about voter qualifications, are punishable as Class C felonies.

A person who knowingly tampers with a registration form or intentionally fails to return another person's registration form is guilty of a gross misdemeanor. This does not apply to the voter who completed the form or to a county auditor who is acting as authorized by law.

The Address Confidentiality Program (ACP). The ACP, administered by the SOS, keeps secret the addresses of certain criminal justice employees and victims of domestic violence, sexual assault, trafficking, or stalking. Program participants may register to vote without creating a public record.

Birth Certificates. State laws regarding birth certificates and other vital records are administered by DOH, and establish a standard birth certificate form, use the requirements

for completing and forwarding birth certificate information, and requirements for issuing new or amended birth certificates.

Summary of Bill (Third Substitute): Automatic Voter Registration With Enhanced Identification. An applicant for an enhanced driver's license or identicaid is automatically registered to vote or update an existing registration if over 18 years of age and United States citizenship is verified at the time of application unless the applicant opts not to register.

DOL must provide to the SOS, on a daily basis, the voter registration information for every person who does not decline to be automatically registered to vote or update an existing registration. For every complete application, the county auditor must mail the applicant an acknowledgement notice and voter registration card within 60 days. For every incomplete application, the auditor shall promptly mail the applicant a verification notice and register the person if missing information is supplied within 45 days.

Automatic Voter Registration at the HBE. Contingent on approval from the Centers for Medicare and Medicaid Services for any process changes, the HBE must transmit the name, address, and date of birth of each consenting applicant who is a citizen and at least 18 years old to the SOS for the purpose of the applicant being registered to vote. HBE must report known barriers to implementation of this process to the Governor and appropriate legislative committees by December 1, 2019. HBE may, in consultation with SOS, establish automatic voter registration. Any barriers to implementation must be reported to the Legislature and Governor by December 1, 2019.

Automatic Voter Registration at Other State Agencies. State agencies providing public assistance or services to persons with disabilities, the Department of Agriculture, the Department of Veterans Affairs, the Military Department, and the business professions division of DOL are encouraged to provide automatic voter registration to applicants for services.

Eligible agencies which opt to provide automatic voter registration must consult with the SOS to establish criteria and procedures. Eligible agencies which do not intend to provide automatic voter registration services must submit a report to the Governor and appropriate legislative committees detailing the reasons doing so would be unfeasible by December 1, 2019. The Governor will make the final decision whether the agency will provide automatic voter registration.

Agency Automatic Voter Registration Processes. Each agency, other than DOL, offering automatic voter registration must inform applicants for assistance that the applicant will be registered to vote unless the applicant declines or is found to be ineligible. The applicant's transaction with the agency will not be completed until the applicant is given the opportunity to decline being registered to vote. The agency must also disclose to applicants:

- the qualifications for becoming a registered voter;
- the penalties for knowingly registering when ineligible or providing false registration information;
- that voter registration is voluntary and will not impact that individual's eligibility for other services or benefits;

- that the person's choice to register or not register will not be used for any other purpose; and
- about the ACP.

Each agency must provide the SOS the following voter registration information for individuals who do not decline to be registered:

- the person's name, residential and mailing addresses, and birth date;
- acknowledgment that the person is a U.S. citizen;
- a digital copy of the person's signature; and
- an affirmation of the person's eligibility to be a registered voter.

Agencies may not share information used to verify identity with federal agencies unless required by law.

The SOS determines whether the person is eligible to be registered to vote or requires an updated voter registration, and provides that information to the county auditor where the person may be registered. The county auditor must then register that person to vote or update the registration information. If voter registration information is received within eight days of an election, information is not submitted to the county auditor until after the election.

Transmission of Existing Records. Each agency offering automatic voter registration, except for DOL, must promptly transmit to the SOS the name, residential and mailing addresses, birth date, and acknowledgement of U.S. citizenship for each person for whom the agency retains this information on July 1, 2020. With the exception of the HBE, each agency must also transmit a digital copy of each person's signature. Information transmitted for voter registration purposes is not subject to public disclosure.

For each person who is not currently registered to vote, the SOS must send notice explaining that voter registration is voluntary, and if the person does not decline to register within 60 days the person will be registered to vote. The notice must provide information about:

- how to decline registration;
- voting eligibility criteria;
- how to correct any missing or incorrect registration information; and
- the ACP.

If the person does not decline to register to vote within 60 days of the notification, the SOS must register that person to vote. If the SOS receives voter registration information within 21 days of an election, the SOS must wait until after the election to register the person. The county auditor must promptly send a notification to each person who is registered to vote or whose existing voter registration was updated under this procedure.

Automatic Voter Registration at Birth and for Naturalized Citizens. The SOS must conduct a study and, by December 1, 2019, propose recommendations to the Legislature, regarding the creation of automatic voter registration processes at birth and for recently naturalized citizens who reside in Washington.

Crimes and Penalties. If a person does not know the person is ineligible to vote and becomes registered through automatic processes, or subsequently unknowingly attempts to vote or

votes illegally as a result of being registered automatically, that person is presumed to have acted with official authorization and is not guilty of a Class C felony.

An employee of a qualified voter registration agency is guilty of a gross misdemeanor if an employee:

- willfully neglects, refuses to perform, or performs in an incorrect manner any duty required by law in connection with the registration of voters;
- enters, causes, or permits to be entered on the voter registration records the name of any person not entitled to be registered; or
- destroys, conceals, or alters any registration record except as authorized by voter registration law.

If an ineligible person is automatically registered to vote, SOS and the relevant agency must jointly determine the cause of the registration.

Information Disclosure. SOS may only disclose the year of a registered voter's birth, rather than the month, date, and year.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Third Substitute):

- Expands automatic voter registration at the Department of Licensing (DOL) to changes of address for enhanced driver's licenses of identicards.
- Clarifies that when SOS must send a verification notice to an automatic voter registration applicant from DOL, the date of registration is the date the application is completed.
- Prohibits agencies from sharing information used to verify identity with federal agencies unless required by law.
- Allows HBE to implement full automatic voter registration, not just electronic transfer of certain information to SOS.
- Replaces SOS authority to conduct a full investigation into instances where ineligible individuals become automatically registered to vote with a joint determination with the relevant agency of causes.
- Restricts disclosure of the month and date of a registered voter's birth.
- Adds the Department of Agriculture, the Department of Veterans Affairs, the Military Department, and the business professions division of DOL to list of agencies encouraged to provide automatic voter registration to applicants for services.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute): Effective Date Changed at DOL. Makes implementation of automatic voter registration at the Department of Licensing effective July 1, 2019.

Effective Date Clarified for Implementation at DOL. Clarifies that automatic voter registration processes must be implemented at the DOL by July 1, 2019.

Clarification on Age. Clarifies that a person who is 18 years of age may have voter registration information transferred from the health benefit exchange to the secretary of state when applying for services.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE (First Substitute): Automatic Voter Registration at the HBE. The HBE is not obligated to provide automatic voter registration of applicants. The HBE must transmit the name, address, and date of birth of each consenting applicant who is a citizen and at least 18 years old to the SOS for the purpose of the applicant being registered to vote.

Automatic Voter Preregistration at Birth. The task force to facilitate the implementation of automatic voter registration at birth is abolished. The SOS study regarding automatic voter registration for recently naturalized citizens must also study automatic voter registration at birth.

Appropriation: None.

Fiscal Note: Requested on February 6, 2018.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill (State Government, Tribal Relations & Elections): *The committee recommended a different version of the bill than what was heard.* PRO: Automatic voter registration is probably the most successful way to increase voter registration and, hopefully, participation in the country. Barriers to exercising the constitutional right to vote should be as low as possible once we are confident the applicant meets all the requirements to register to vote, including citizenship. It is estimated that 185,000 people would be registered through DOL and 360,000 through other agencies under this bill. Oregon experienced dramatic increases in registration by young voters and people of color with automatic registration. It is essential that our state do everything in its power to increase accessibility and equity in elections. This will fully empower students who move to Washington and want to build their lives here by promoting civic engagement. Voter rolls will be more accurate, efficient, and secure. This is by far the best and most inclusive automatic voter registration proposal this session. This bill incorporates feedback from lessons learned in other jurisdictions. Confusion about deadlines and eligibility requirements create barriers for marginalized communities that will be resolved by this bill. Oregon was able to update 265,000 inaccurate addresses on file when automatic voter registration was implemented there. A majority of new voters will register through automatic processes if this bill is passed. Voter registration itself is a barrier to participation which will be reduced by this bill. Automatic voter registration will allow for a more orderly registration process and ensure data integrity if voter registration deadlines shorten. By involving multiple state agencies, this bill will have a wide reach in the underrepresented Asian-Pacific Islander community. A poll shows 55 percent of Washingtonians are in support of automatic voter registration.

OTHER: Concerns were raised about the provision for automatic voter preregistration at birth, because address data may be inaccurate by the time the person turns 18. Concerns were also raised about the requirement for the Secretary of State to contact people on existing service lists who have been offered the opportunity to register to vote and declined.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Senator Sam Hunt, Prime Sponsor; Greg Kimsey, Clark County Auditor; Kathy Sakahara, League of Women Voters; Sean Jacobson, The Washington Bus; Arne Nelson, Washington Student Association; Cindy Black, Fix Democracy First; Elise Orlick, WashPIRG; Mary Hall, Thurston County Auditor; Makayla Wright, Youth Voice; James Paribello, Washington Voting Justice Coalition; RaShelle Davis, Governor's Office; Rosa Rice-Pelepko, Associated Students of Western Washington University; Mike Rooney, Washington State Association of County Auditors; Julie Wise, King County Elections; Derek Lum, Asian Pacific Islanders for Civic Empowerment; Andrew Villeneuve, Northwest Progressive Institute.

OTHER: Ryan Ottele, citizen; Lori Augino, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Other states have implemented automatic voter registration (AVR) with success. The fiscal impact would be less than the original bill. The bill reduces barriers to democratic participation. Democracy is strongest when all voices are heard and this bill increases the democratic process. The bill reduces inaccurate addresses. Oregon implemented a similar program. I support the amended version and the staff fiscal estimate for the substitute bill was accurate. Most agencies have contact with the Secretary of State's Office throughout the year, so the communication requirements for agencies may not be a financial burden to them.

Persons Testifying (Ways & Means): PRO: Senator Sam Hunt, Prime Sponsor; David Elliott, Policy Director, Office of Secretary of State; James Paribello, Washington Voting Justice Coalition; RaShelle Davis, Governor's Office.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

Staff Summary of Public Testimony on Second Substitute (Transportation): *The committee recommended a different version of the bill than what was heard.* PRO: The goal of the legislation is to reduce barriers and increase voter participation. Automatic voter registration is a way to improve citizen involvement and address the lack of civic engagement. No one is registered to vote without their consent. The state needs to increase accessibility to voter registration. The bill will increase the ability to have our voices heard. The cross-agency approach is a common sense and efficient one. Citizenship is verified through the existing mechanisms and this protects the privacy of personal information.

Persons Testifying (Transportation): PRO: Rosa Rice-Pelepko, Associated Students of Western Washington University; Salvador Salazar Cano, University of Washington, Bothell and the Washington Student Association; RaShelle Davis, Governor's Office; Sean Jacobson, The Washington Bus; James Paribello, Washington Voting Justice Coalition.

Persons Signed In To Testify But Not Testifying (Transportation): PRO: Oskar Zambrano, Director of Civic Engagement and Advocacy, Latino Community Fund.